

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
FLORENCE MULHOLLAND, on behalf of herself and as	:
Administratrix of the estate of DAVID MULHOLLAND,	:
	:
Plaintiffs,	:
-against-	:
	:
PHILIP MORRIS USA INC.	:
Defendant.	:
-----X	

05-Civ-9908(cs)

Plaintiff's Objection to Defendant
Philip Morris USA, Inc.'s Proposed Voir Dire

Plaintiff objects to Philip Morris' proposed Questions #13 to #15, on the grounds that these questions seek details about the potential jurors' smoking histories which are irrelevant and prejudicial to Plaintiff. Answers to these questions take the form of smoker testimonials, which may be used improperly by jurors in evaluating the evidence in the case. For example, if a potential juror gives an off the cuff answer that they easily quit smoking cold turkey, jurors may improperly use this evidence related to Mr. Mulholland's ability to quit smoking. There is nothing in the information sought by Questions #13 to #15 which would bear on the ability of a potential juror to be fair and impartial. To prevent this prejudice, Plaintiff requests that the potential jurors to be asked the following questions, which will provide sufficient information:

Have you ever been a smoker? Are you currently a smoker?


Is there anything about your smoking history that would prevent you from being a fair and impartial juror in this case?

[SIGNATURE ON NEXT PAGE]

{00311140.DOCX}

Respectfully submitted,

LEVY PHILLIPS & KONIGSBERG, LLP



Jerome H. Block, Esquire (I.D. JB-5411)

Amber R. Long, Esquire (I.D. AL-9931)

800 Third Avenue - 11th Floor

New York, NY 10022

Phone: (212) 605-6200

Fax: (212) 605-6290

Attorneys for Plaintiff

Dated: July 2, 2013